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10/519,036	12/22/2004	Scott Allan Kendall	PU020317	7003
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EXAMINER				
BAIG, SAHAR A				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/519,036

**Applicant(s)**

KENDALL ET AL.

**Examiner**

SAHAR A. BAIG

**Art Unit**

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed 04/15/2008 have been fully considered but they are not persuasive.

Regarding independent claim 1, the Applicant argues on Page 7 Paragraph 2 that Zimmerman uses the profile to determine whether an alert should be presented and to specify a contact method; but not to provide user selectable alert modes corresponding to the type of emergency event. Examiner respectfully disagrees and would like to direct the Applicant towards paragraph 0020 of Zimmerman.

Zimmerman discloses a device capable of profiling user's level of importance that a detected emergency event has to the user. Different levels of importance have been designated a different preferred method of alert. For example, during late evenings/early morning, turn "ON" select appliances if a select special event scores above an "80;" during daytime, dispatch a wireless message to at least one communication device associated with the subscriber/user if a select special event scores above an "85" or if a select special event scores above an "60" and the special event is a tornado, etc. Therefore, it can be concluded that the user is indeed able to select the alert mode (method of being contacted) corresponding to different types of emergency events.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1-6, 8-13, and 15-20, rejected under 35 U.S.C. 102(e) as being anticipated by Zimmerman et al. (US Patent Publication No. 2003/0093789).

Regarding Claim 1, 8, and 15, Zimmerman discloses in **Figure 3** a television signal receiver **315** having an emergency alert function, comprising: a tuner **310** operative to tune a frequency including emergency alert signals indicating a type of emergency event **[0016 lines 13-15]**; and a processor operative to enable an alert output responsive to the emergency alert signals, wherein the alert output is provided in accordance with a user selectable alert mode corresponding to the type of emergency event **[0020]**.

Regarding Claim 2, Zimmerman discloses an interface operative to enable a user to turn the alert output on and off **[0068 The ON/OFF status of television 300 is**

*controlled by an operator using either a remote control or a manual switch to generate an ON/OFF signal].*

Regarding Claim 3, 6, 10, 13, 17, and 20 Zimmerman discloses that the processor is further operative to enable a plurality of alert outputs responsive to the emergency alert signals, and the plurality of alert outputs are provided in accordance with a plurality of user selectable alert modes corresponding to the type of emergency event **[0013 The broadcast special event content may suitably be indicative of a public alarm, an emergency warning, an event of interest (e.g., local, regional, national or international political, economic, social, government or like event), as well as any event that is of interest to a subscriber, subscriber group or subscriber type, or the like, the latter may be defined, at least in part, by a subscriber profile]**.

Regarding Claims 4, 5, 11, 12, 18, and 19, Zimmerman discloses the alert outputs **Figure 1** to be in the form of visual **182** and aural **181** outputs.

### ***Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 7, 14, and 21, rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmerman et al. (US Patent Publication No. 2003/0093789) in view of Letzt et al. (US Patent No. 5,612,869).

Regarding Claim 7, 14, and 21, Zimmerman discloses all of the claimed feature of the present invention except the means to not completely turn off at least one of the plurality of the outputs. In an analogous art, Letzt describes an alert system where a user cannot turn off the volume entirely and miss an alert [Col. 19 line 65 – Col. 20 line 6]. Therefore it would have been obvious to one of ordinary skill in the art to combine the teachings of Zimmerman and Letzt to manufacture a system wherein a user is able to hear emergency broadcasts and survive a disaster.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAHAR A. BAIG whose telephone number is (571)270-3005. The examiner can normally be reached on 4/5/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/  
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SB